

COPIED 1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- - - - - X

JUDITH H. WEISS,

Plaintiff,

against,

FRANCES M. CREEM and BETTY M. OLSON,

Defendants.

- - - - - X

DATED: January 21, 2008  
Poughkeepsie, New York  
2:20 p.m. - 3:00 p.m.

Patrick M. DeGiorgio, Reporter

DEPOSITION

OF

KRISTOFER BARNHART

(A Non-Party Witness)

MARY T. BABIARZ COURT REPORTING SERVICE, INC.  
(845) 471-2511

1

BARNHART

8

2

A. No.

3

Q. I notice you brought a copy of a police  
accident report. Have you had a chance to  
take a look at that before coming here  
today?

6

A. Yes.

8

Q. Is that a two-page document?

9

A. Yes.

10

Q. For Identification purposes today that's  
been marked as Defendant's Exhibit B. I'll  
have you take a look at both of those  
documents in a second, but before I have you  
do that, do you have an independent  
recollection of an accident which occurred  
on Route 32 north on September 18th, 2006 in  
the Town of Rosendale?

17

A. Yes.

19

Q. Can you tell me, sir, what your independent  
recollection is about that accident?

21

A. There was construction in the area, I don't  
remember what for. I got called for an  
accident, a woman came down and struck a  
vehicle that was stopped due to the  
construction zone. That was about it.

1

BARNHART

11

2

Q. From looking at the report, can you tell  
what the colors of those cars were?

4

A. No. It's not on here, no.

5

Q. Does that refresh your recollection as to  
what the colors of the car were?

7

A. No. It was too long ago.

8

Q. When you arrived at the scene, can you tell  
me the relevant positions of the cars?

10

A. There were -- they were in the northbound  
lane then, right in the lane itself.

12

Q. The northbound lane of Route 32 in the area  
of the accident, is that one lane, two lanes  
or something else?

15

A. One lane.

16

Q. How about in the southbound direction of  
that location, one lane, two lanes or  
something else?

19

A. Two lanes.

20

Q. Do you recall the weather that day?

21

A. Just clear. There was nothing, no snow or  
anything like that, no rain.

23

Q. Do you know if the weather was a factor in  
the accident at all?

25

A. No, it was not.

1

BARNHART

13

2

in one vehicle and one person in the other?

3

A. Yes.

4

Q. Do you recall which had which?

5

A. I'd have to look at the report. Frances Creem in one vehicle and Betty Olson and Judith was Weiss in the second vehicle.

3

7

Q. Who was driving in the Olson/Weiss vehicle?

9

A. Olson.

10

Q. Can you describe Miss Olson?

11

A. No. It was too long ago.

12

Q. Can you describe Miss Weiss?

13

A. Too long ago.

14

Q. How about Miss Creem, can you describe her?

15

A. Too long ago.

16

Q. Do you recall having a conversation with Miss Creem about how the accident took place?

19

A. Could I look at the report?

20

Q. Sure.

21

A. Vaguely I remember her telling me about the brakes not working properly.

23

Q. Do you know if that came from Miss Creem or some other source?

25

A. I believe Miss Creem.

1

BARNHART

32

2

A. We can print out and exchange information  
for the drivers, but you have to bring it  
back to the station to get it approved by  
the supervisor.

6

Q. All the information that is on B was  
generated at the scene?

8

A. Yes.

9

Q. The second page, diagram on the exhibit,  
Exhibit B, that's put down to your  
description of the actual accident, not  
where you found the vehicles when you  
arrived; correct?

14

A. Yes. That would be the description that  
they gave me of what happened, I put it on  
the diagram.

17

Q. You indicated that there are boxes to  
indicate causative factors on the report,  
Exhibit B; correct, but you just don't know  
which -- you don't have the code for the  
causing factors with you today?

22

A. Correct.

23

Q. Do you recall which boxes on the report are  
causative factors and for which vehicle?

25

A. It would be up on the right hand side up

1

BARNHART

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here somewhere.

3

Q. That would be the one 19, 20, 21 and 22?

4

A. Yes. Somewhere in there is the -- I'm not positive exactly which one it is.

5

Q. So whatever 42 is, you put down 42, that would correspond to a causative factor, on box number 19 on the right-hand side?

6

A. If 19 is that corresponding box. It's one of these here. I'm not positive which one.

7

MR. KONDULIS:

8

I have no further questions.

9

MR. O'SHAUGHNESSY:

10

I have one follow-up.

11

CONTINUED EXAMINATION BY MR. O'SHAUGHNESSY:

12

Q. As part and parcel of your investigation of an accident scene, would you also look to examine whether a vehicle had a proper inspection?

13

A. Yes.

14

Q. Would you also look to see if a car had a proper registration?

15

A. Yes.

16

Q. And a valid license?

17

A. Yes.

Local Codes		
06-1166		
6SRPD4000047		

# POLICE ACCIDENT REPORT

MV-104A (3/04)

19  
42 AMENDED REPORT20  
-

1 Accident Date			Day of Week		Military Time		No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene	<input type="checkbox"/>	Left Scene	Police Photos	20 -		
Month	Day	Year	Monday		15:00		2	3	0	Accident Reconstructed	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<b>VEHICLE 1</b>																
2 VEHICLE 1 - Driver License ID Number 797784887					State of Lic. NY		3 VEHICLE 2 - Driver License ID Number 300433039					State of Lic. NY		21 -		
Driver Name - exactly as printed on license CREAM, FRANCES M					Driver Name - exactly as printed on license OLSON, BETTY M											
Address (Include Number and Street) 59 CHURCH ST					Apt. No.		Address (Include Number and Street) 254 HOLLOW RD					Apt. No.				
City or Town NEW PALTZ			State NY		Zip Code 12561		City or Town STAATSBURG			State NY		Zip Code 12580		22 -		
3 Date of Birth		Sex	Unlicensed	No. of Occupants		Public Property Damaged	4 Date of Birth		Sex	Unlicensed	No. of Occupants	Public Property Damaged				
Month	Day	Year	F	01		<input type="checkbox"/>	Month	Day	Year	F	02					
6	14	1930	<input type="checkbox"/>				6	26	1943	<input type="checkbox"/>						
Name - exactly as printed on registration CREEM, FRANCES M					Name - exactly as printed on registration OLSON, BETTY M					Sex		Date of Birth	23 1			
										F	Month	Day	Year			
											6	26	1943			
4 Address (Include Number and Street) 59 CHURCH ST					Apt. No.		Haz. Mat. Code	Released		Apt. No. Haz. Mat. Code Released						
							-	<input type="checkbox"/>								
1 City or Town NEW PALTZ					State NY		Zip Code 12561		City or Town STAATSBURG					State NY		24 1
Plate Number BYM9383		State of Reg NY	Vehicle Year & Make 1991 BUIC	Vehicle Type 4DSD		Ins. Code 328	Plate Number NYCOM48		State of Reg NY	Vehicle Year & Make 2003 SUZI	Vehicle Type 4DSD		Ins. Code 639			
3 Ticket/Areast Number(s)					Ticket/Areast Number(s)											
2 Violation Section(s)					Violation Section(s)										25 1	
6 V Check if involved vehicle is: E <input type="checkbox"/> more than 95 inches wide; E <input type="checkbox"/> more than 34 feet long; H <input type="checkbox"/> operated with an overweight permit; I <input type="checkbox"/> operated with an overdimension permit					V Check if involved vehicle is: E <input type="checkbox"/> more than 95 inches wide; E <input type="checkbox"/> more than 34 feet long; H <input type="checkbox"/> operated with an overweight permit; I <input type="checkbox"/> operated with an overdimension permit					Check the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.						
										Rear End	Left Turn	Right Angle	Right Turn	Head On		
																
7 L C VEHICLE 1 DAMAGE CODES					C VEHICLE 2 DAMAGE CODES					Sideswipe (same direction)	Len Turn	Right Turn	Sideswipe (opposite direction)		26 8	
L Box 1 - Point of Impact 1 2 E Box 2 - Most Damage 2 2					C Box 1 - Point of Impact 1 2 E Box 2 - Most Damage 8 8											
L Enter up to three E more damage codes 1 3					C Enter up to three E more damage codes 3 4 5 7 9											
1 Vehicle Br. BILLS TOWING Towed To. BILLS TOWING					2 Vehicle Br. BILLS TOWING Towed To. BILLS TOWING					ACCIDENT DIAGRAM						
See the last page for the accident diagram.																
9.																
Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No													28 1			
Reference Marker			Coordinates (if available)		Place Where Accident Occurred:											
3 2			Latitude/Northing:		County <u>ULSTER</u> <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Town of <u>ROSENDALE</u>											
8 6 0 2			Longitude/Easting:		Road on which accident occurred <u>ROUTE 32</u> (Route Number or Street Name)											
1 1 8 7					at 1) intersecting street _____ or 2) <u>100</u> feet <input type="checkbox"/> N <input checked="" type="checkbox"/> S <u>PARKCREST DR</u> (Route Number or Street Name) <u>miles</u> <input type="checkbox"/> E <input type="checkbox"/> W (Milepost, Nearest intersecting Route Number or Street Name)											
Accident Description/Officer's notes V1 WAS TRAVELING N/B ON ROUTE 32 BEHIND V2. WHEN V1 WAS COMING DOWN THE HILL, V2 WAS STOPPED DUE TO CONSTRUCTION AHEAD. V1 WENT TO APPLY THE BRAKES AND THE BRAKES FAILED. V1 STRUCK V2. REPORTING OFFICER DID FIND A PUDDLE OF BRAKE FLUID ON THE ROADWAY UNDER V1.													30 -			

N

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only	
A	1	1	4	1	76	F	X	X	6	11372ET	5503	CREEM, FRANCES M		
B	2	1	4	1	63	F	04	14	6	11363ET	5501	OLSON, BETTY M		
C	2	3	4	1	56	F	04	14	6	11363ET	5501	WEISS, JUDITH H		
D														
E														
F														
Officer's Rank and Signature PO Print Name Kristofer Barnhart in Full	<u>Kristofer Barnhart</u>					Badge/ID No. 215		NCIC No. 05590		Precinct/Post Troop/Zone F3		Station/Beat Sector Buboltz, Andrew J	Reviewing Officer Date/Time Reviewed 9/25/2006 10:01	

Local Codes
06-1166
6SRPD4000047

## POLICE ACCIDENT REPORT

MV-104A (3/04)

 AMENDED REPORT

Accident Date		Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene	<input type="checkbox"/>	Left Scene	Police Photos
Month	Day	Year					Accident Reconstructed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9	18	2006	Monday	15:00	2	3	0	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



